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19 Attorneys for Plaintiff
20 RONALD COUWENHOVEN

21 **UNITED STATES DISTRICT COURT**
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
23 **EASTERN DIVISION**

24 RONALD COUWENHOVEN,

25 Plaintiff,

26 vs.

27 ABBOTT LABORATORIES, INC.,
28 ABBVIE, INC., ACTAVIS, INC.,
JANE DOE DISTRIBUTORS (1-50),
JOHN DOE DRUG COMPANY
DEFENDANTS (1-50), JANE DOE
DRUG DISTRIBUTOR
DEFENDANTS (1-50), JIM DOE
DOE HEALTH CARE PROVIDERS
(1-50), and JILL DOE (1-50),

Defendants.

Case No. 5:14-cv-00667-JGB-DTB*

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

2014 APR -4 PM 1:38
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: _____

FILED

COMPLAINT FOR DAMAGES

1
2 Plaintiff RONALD COUWENHOVEN ("Plaintiff"), files this Complaint
3 against the Defendants, ABBOTT LABORATORIES, INC., ABBVIE, INC.,
4 ACTAVIS, INC., and DOES (all defendants collectively hereinafter referred to as
5 the "Defendants") alleging as follows:

6 **NATURE OF ACTION**

7 1. This is an action for damages suffered by Plaintiff as a direct and
8 proximate result of Defendants' wrongful conduct in connection with the
9 development, design, testing, labeling, packaging, promoting, advertising,
10 marketing, distribution, and selling of Defendants' prescription medication
11 Androgel and Androderm.

12 2. This case involves the prescription drugs Androgel and Androderm
13 ("testosterone"), which are manufactured, sold, distributed and promoted by
14 Defendants as testosterone replacement therapies.

15 3. Defendants misrepresented that testosterone is a safe and effective
16 treatment for hypogonadism or "low testosterone," when in fact these drugs cause
17 serious medical problems, including life threatening cardiac events, strokes, and
18 thrombolytic events.

19 4. Defendants engaged in aggressive, award-winning direct-to-consumer
20 and physician marketing and advertising campaigns for testosterone. Further,
21 Defendants engaged in an aggressive unbranded "disease awareness" campaign to
22 alert men that they might be suffering from "low T."

23 5. As a result, diagnoses of Low T and prescriptions for testosterone
24 replacement therapies have increased exponentially. For example:

- 25 a. Defendants ABBOTT LABORATORIES, INC. ("ABBOTT")
26 and ABBVIE, INC.'s sales of AndroGel have increased to over
27 \$1.37 billion per year; and
28

1 of Nevada with its principal place of business at Morris Corporate Center III, 400
2 Interpace Parkway, Parsippany, New Jersey, 07054. ACTAVIS, INC. has
3 conducted business and derived substantial revenue from within the State of
4 California.

5 12. By way of background, TheraTech, Inc. originally developed
6 Androderm, which was approved by the FDA on 9/29/1995. Watson acquired
7 TheraTech in January 1999 and continued to manufacture and distribute
8 Androderm. Watson then acquired Actavis on October 31, 2012, and subsequently
9 changed its corporate name to Actavis, Inc. on January 23, 2013.

10 13. Defendant John Doe Manufacturer Defendants are defendants who are
11 or have been involved in the manufacture, distribution, marketing, sale and
12 labeling of testosterone products but are not yet known by Plaintiff(s).

13 14. At all times relevant herein, Defendants tested, studied, researched,
14 designed, formulated, manufactured, inspected, labeled, packaged, promoted,
15 advertised, marketed, distributed, and sold the prescription drugs Androgel and
16 Androderm in interstate commerce and throughout the State of California. At all
17 times relevant herein, Defendants were registered to do business in the State of
18 California.

19
20 **JURISDICTION AND VENUE**

21 15. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because
22 Plaintiff and Defendants are citizens of different States and the amount in
23 controversy exceeds \$75,000 exclusive of interest and costs.

24 16. Venue in this action properly lies in this judicial district pursuant to 28
25 U.S.C. § 1391(a), as a substantial number of the events, actions or omissions
26 giving rise to Plaintiff's claims occurred in this district. At all times material
27 hereto, Defendants conducted substantial business in this district.

28 ///

TESTOSTERONE THERAPY AND ITS SIDE EFFECTS

17. Hypogonadism is a specific condition of the sex glands that may involve the diminished production or nonproduction of testosterone in males.

18. Testosterone is a primary androgenic hormone responsible for normal growth, development of the male sex organs, and maintenance of secondary sex characteristics.

19. The hormone plays a role in sperm production, fat distribution, maintenance of muscle strength and mass, and sex drive.

20. In men, testosterone levels normally begin a gradual decline after the age of thirty.

21. The average testosterone levels for most men range from 300 to 1,000 nanograms per deciliter of blood. Testosterone levels can fluctuate greatly depending on many factors, including sleep, time of day, and medication. Resultantly, many men who fall into the hypogonadal range one day will have normal testosterone levels the next.

AndroGel

22. The Food and Drug Administration approved AndroGel 1% on February 28, 2000, and then approved AndroGel 1.62% on April 29, 2011. After FDA approval, AndroGel was widely advertised and marketed as a safe and effective testosterone replacement therapy.

23. AndroGel is a hydroalcoholic gel containing testosterone that is applied to the shoulders and upper arms, and enters the body through transdermal absorption.

24. AndroGel may produce undesirable side effects to patients who use the drug, including, but not limited to, myocardial infarction, stroke, and death.

25. In some patient populations, AndroGel use may increase the incidence of myocardial infarctions and death by more than 500%.

///

Androderm

26. The Food and Drug Administration approved Androderm on September 29, 1995. After FDA approval, Androderm was widely advertised and marketed as a safe and effective testosterone replacement therapy.

27. Androderm is a transdermal patch containing testosterone and is applied to the back, abdomen, upper arms and thighs.

28. Androderm may produce undesirable side effects to patients who use the drug, including, but not limited to, myocardial infarction, stroke, and death.

29. In some patient populations, Androderm use may increase the incidence of myocardial infarctions and death by more than 500%.

30. In 2010, a New England Journal of Medicine Study entitled "Adverse Events Associated with Testosterone Administration" was discontinued after an exceedingly high number of men suffered adverse events.

31. In November 2013, a JAMA study was released entitled "Association of Testosterone Therapy with Mortality, Myocardial Infarction, and Stroke in Men with Low Testosterone Levels," which indicated that testosterone therapy raised the risk of death, heart attack and stroke by approximately 30%.

32. On January 29, 2014, a study was released in PLOS ONE entitled "Increased Risk of Non-Fatal Myocardial Infarction Following Testosterone Therapy Prescription in Men," which indicated that testosterone use doubled the risk of heart attacks in men over sixty-five years old and men younger than sixty-five with a previous diagnosis of heart disease.

33. There have been a number of studies concluding that testosterone therapy causes a sudden increase in hematocrit, hemoglobin and estradiol, and associating its use with an increased risk of heart attacks and strokes.

34. In addition to the above, Defendants' testosterone product has been linked to several severe and life changing medical disorders in the user of the product and in those who come into physical contact with the user or the user's

1 unwashed clothes. Patients taking an aforementioned testosterone product may
2 experience enlarged prostates and increased serum prostate-specific antigen levels.

3 35. Secondary exposure to testosterone can cause side effects in others.
4 In 2009, the FDA issued a black box warning for testosterone prescriptions,
5 advising patients of reported virilization in children who were secondarily exposed
6 to the gel. Testosterone may also cause physical changes in women exposed to the
7 drug and cause fetal damage with pregnant women who come into secondary
8 contact with testosterone.

9 36. Defendants' marketing strategy has been to aggressively market and
10 sell their products by misleading potential users about the prevalence and
11 symptoms of low testosterone and by failing to protect users from serious dangers
12 that Defendants knew or should have known result from use of its products.

13 37. Defendants successfully marketed testosterone by undertaking a
14 "disease awareness" marketing campaigns. These campaigns sought to create a
15 consumer perception that low testosterone is prevalent among U.S. men and that
16 symptoms previously associated with other physical and mental conditions, such as
17 aging, stress, depression, and lethargy were actually attributable to "Low-T."

18 38. Defendant coordinated massive advertising campaigns designed to
19 convince men that they suffered from low testosterone. Defendant orchestrated
20 national disease awareness media blitzes that purported to educate male consumers
21 about the signs of low testosterone. The marketing campaigns included
22 promotional literature placed in healthcare providers' offices and distributed to
23 potential testosterone users, and online media.

24 39. The advertisements suggest that various symptoms often associated
25 with other conditions may be caused by low testosterone and encourage men to
26 discuss testosterone replacement therapy with their doctors if they experienced any
27 of the "symptoms" of low testosterone. These "symptoms" include listlessness,

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1 increased body fat, and moodiness—all general symptoms that are often a result of
2 aging, weight gain, or lifestyle, rather than low testosterone.

3 40. Defendants' advertising programs sought to create the image and
4 belief by consumers and their physicians that the use of testosterone was a safe
5 method of alleviating their symptoms, had few side effects and would not interfere
6 with their daily lives, despite that Defendants knew or should have known these to
7 be false and without any support from their own studies or widely accepted
8 medical literature.

9 41. Defendants purposefully downplayed, understated and outright
10 ignored the health hazards and risks associated with using testosterone.
11 Defendants deceived potential testosterone users by relaying positive information
12 through the press, including testimonials from retired professional athletes, and
13 manipulating hypogonadism statistics to suggest widespread disease prevalence,
14 while downplaying known adverse and serious health effects.

15 42. Defendants concealed material relevant information from potential
16 testosterone users and minimized user and prescriber concern regarding the safety
17 of testosterone replacement therapy.

18 43. In particular, Defendants fail to mention any potential cardiac or
19 stroke side effects in their commercials, online and print advertisements, and
20 falsely represent that Defendants adequately tested testosterone for all likely side
21 effects.

22 44. As a result of Defendants' advertising and marketing, and
23 representations about their products, men in the United States pervasively seek out
24 prescriptions for testosterone. If Plaintiff in this action had known the risks and
25 dangers associated with testosterone, Plaintiff would not have taken testosterone
26 and consequently would not have been subject to its serious side effects.

1 45. Defendants also sought to convince primary care physicians that low
2 testosterone levels are widely under-diagnosed, and that conditions associated with
3 normal aging could be caused by low testosterone levels.

4 46. A study published in the Journal of the American Medical Association
5 (“JAMA”) in August 2013 entitled “Trends in Androgen Prescribing in the United
6 States, 2001-2011” indicated that many men who get testosterone prescriptions
7 have no evidence of hypogonadism. For example, one third of men prescribed
8 testosterone had a diagnosis of fatigue, and one quarter of men did not even have
9 their testosterone levels tested before they received a testosterone prescription.

10 47. While running disease awareness campaigns, Defendants promoted
11 their testosterone product as an easy to use topical testosterone replacement
12 therapy. Defendants contrast their products’ at-home topical application with less
13 convenient prescription testosterone injections, which require frequent doctor
14 visits.

15 48. Defendants convinced millions of men to discuss testosterone
16 replacement therapy with their doctors, and consumers and their physicians relied
17 on Defendants’ promises of safety. Although prescription testosterone
18 replacement therapy has been available for years, it was not until Defendants’
19 massive marketing campaign that millions of men, who were never been
20 prescribed testosterone, flocked to their doctors and pharmacies.

21 49. What consumers received, however, were not safe drugs, but products
22 that cause life-threatening problems, including strokes, heart attacks, and death.

23 50. Defendants successfully created a robust and previously nonexistent
24 market for their drugs. Defendants spent millions of dollars promoting their
25 products. Defendants also spent millions on their unbranded marketing including
26 commercials and websites recommending that men have regular checkups with
27 their physicians and five regular tests done: tests for cholesterol, blood pressure,
28 blood sugar, prostate-specific antigen, and testosterone.

1 51. Defendants' advertising resulted in an exponential increase of sales.
2 Sales of replacement therapies have more than doubled since 2006, and are
3 expected to triple to \$5 billion by 2017, according to forecasts by Global Industry
4 Analysts. Shannon Pettypiece, Are Testosterone Drugs the Next Viagra?, May 10,
5 2012, Bloomberg Businessweek, available at:
6 [http://www.businessweek.com/articles/2012-05-10/are-testosterone-drugs-the-](http://www.businessweek.com/articles/2012-05-10/are-testosterone-drugs-the-next-viagra)
7 [next-viagra](http://www.businessweek.com/articles/2012-05-10/are-testosterone-drugs-the-next-viagra)

8 52. The Defendants' marketing program sought to create the image and
9 belief by consumers and physicians that low testosterone affected a large number
10 of men in the United States and that the use of testosterone is safe for human use,
11 despite that Defendants knew these to be false and without any support from their
12 own studies or widely accepted medical literature.

13 53. Defendants engaged in aggressive, award-winning direct-to-consumer
14 and physician marketing and advertising campaigns for testosterone. Further,
15 Defendants engaged in an aggressive unbranded "disease awareness" campaign to
16 alert men that they might be suffering from "low T."

17 **SPECIFIC FACTUAL ALLEGATIONS**

18 54. In or about 2007, Plaintiff RONALD COUWENHOVEN was sixty
19 two years of age when he was prescribed and began Androgel and/or Androderm
20 for symptoms he attributed to low testosterone after viewing Defendants'
21 advertisements. Plaintiff started taking Androgel and/or Androderm in or about
22 September 2007 and stopped taking it in in or about 2014.

23 55. Neither Plaintiff, nor his physician, received an adequate warning
24 from Defendants about the risk of persistent and/or permanent injury after
25 discontinuation of treatment.

26 56. Plaintiff was very healthy and had no history of blood clots prior to
27 taking testosterone. In keeping with his healthy and proactive lifestyle, Plaintiff
28 agreed to initiate testosterone treatment. He relied on claims made by Defendants

1 that testosterone had been clinically shown to safely and effectively raise
2 testosterone levels.

3 57. Plaintiff was diagnosed with Deep Vein Thrombosis on or about April
4 5, 2012. As a result, Plaintiff was prescribed blood thinners, etc.

5
6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF**

8 **Strict Liability – Failure to Warn**

9 58. Plaintiff incorporates by reference each and every paragraph of this
10 Complaint as if fully set forth herein and further alleges as follows:

11 59. The testosterone products manufactured and/or supplied by
12 Defendants were defective due to inadequate warnings or instructions because
13 Defendants knew or should have known that the products created significant risks
14 of serious bodily harm to consumers, and they failed to adequately warn consumers
15 and/or their health care providers of such risks. The testosterone products
16 manufactured and/or supplied by Defendants were defective due to inadequate
17 post-marketing warnings or instructions because, after Defendants knew or should
18 have known of the risk of serious bodily harm from the use of testosterone,
19 Defendants failed to provide an adequate warning to consumers and/or their health
20 care providers of the product.

21 60. As a direct and proximate result of Plaintiff's reasonably anticipated
22 use of testosterone as manufactured, designed, sold, supplied, marketed and/or
23 introduced into the stream of commerce by Defendants, Plaintiff suffered serious
24 injury, harm, damages, economic and non-economic loss and will continue to
25 suffer such harm, damages and losses in the future.

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27 ///

28 ///

COMPLAINT FOR DAMAGES

1 **THIRD CLAIM FOR RELIEF**

2 **Breach of Implied Warranty**

3 66. Plaintiff incorporates by reference each and every paragraph of this
4 Complaint as if fully set forth herein and further alleges as follows:

5 67. Prior to the time that the aforementioned products were used by
6 Plaintiff, Defendants impliedly warranted to Plaintiff and Plaintiff's agents and
7 physicians that testosterone was of merchantable quality and safe and fit for the use
8 for which it was intended.

9 68. Plaintiff was and is unskilled in the research, design and manufacture
10 of the products and reasonably relied entirely on the skill, judgment and implied
11 warranty of the Defendants in using testosterone.

12 69. Testosterone was neither safe for its intended use nor of merchantable
13 quality, as warranted by Defendants, in that testosterone has dangerous
14 propensities and will cause severe injuries to users when used as intended.

15 70. As a result of the abovementioned breach of implied warranties by
16 Defendants, Plaintiff suffered serious injury, harm, damages, economic and non-
17 economic loss and will continue to suffer such harm, damages and losses in the
18 future.

19 **FOURTH CLAIM FOR RELIEF**

20 **Breach of Express Warranty**

21 71. Plaintiff incorporates by reference each and every paragraph of this
22 Complaint as if fully set forth herein and further alleges as follows:

23 72. At all times mentioned, Defendants expressly represented and
24 warranted to Plaintiff and Plaintiff's agents and physicians, by and through
25 statements made by Defendants or their authorized agents or sales representatives,
26 orally and in publications, package inserts and other written materials intended for
27 physicians, medical patients and the general public, that testosterone is safe,
28

1 effective, fit and proper for its intended use. Plaintiff purchased testosterone
2 relying upon these warranties.

3 73. In utilizing testosterone, Plaintiff relied on the skill, judgment,
4 representations, and foregoing express warranties of Defendants. These warranties
5 and representations were false in that testosterone is unsafe and unfit for its
6 intended uses.

7 74. As a result of the abovementioned breach of express warranties by
8 Defendants, Plaintiff suffered serious injury, harm, damages, economic and non-
9 economic loss and will continue to suffer such harm, damages and losses in the
10 future.

11 **FIFTH CLAIM FOR RELIEF**

12 **Fraud**

13 75. Plaintiff incorporates by reference each and every paragraph of this
14 Complaint as if fully set forth herein and further alleges as follows:

15 76. Defendants, from the time they first tested, studied, researched,
16 evaluated, endorsed, manufactured, marketed and distributed testosterone, and up
17 to the present, willfully deceived Plaintiff, Plaintiff's physicians and the general
18 public, by concealing from them the true facts concerning testosterone, which the
19 Defendants had a duty to disclose.

20 77. At all times herein mentioned, Defendants conducted a sales and
21 marketing campaign to promote the sale of testosterone and willfully deceived
22 Plaintiff, Plaintiff's physicians and the general public as to the benefits, health
23 risks and consequences of using testosterone. Defendants knew of the foregoing,
24 that testosterone is not safe, fit and effective for human consumption, that using
25 testosterone is hazardous to health, and that testosterone has a serious propensity to
26 cause serious injuries to its users including, but not limited to, the injuries Plaintiff
27 suffered.

1 78. Defendants concealed and suppressed the true facts concerning
2 testosterone with the intent to defraud Plaintiff, in that Defendants knew that
3 Plaintiff physicians would not prescribe testosterone, and Plaintiff would not have
4 used testosterone, if they were aware of the true facts concerning its dangers.

5 79. As a result of Defendants' fraudulent and deceitful conduct, Plaintiff
6 suffered serious injury, harm, damages, economic and non-economic loss and will
7 continue to suffer such harm, damages and losses in the future.

8
9 **SIXTH CLAIM FOR RELIEF**

10 **Negligent Misrepresentation**

11 80. Plaintiff incorporates by reference each and every paragraph of this
12 Complaint as if fully set forth herein and further alleges as follows:

13 81. From the time testosterone was first tested, studied, researched,
14 evaluated, endorsed, manufactured, marketed and distributed, and up to the
15 present, Defendants made misrepresentations to Plaintiff, Plaintiff's physicians and
16 the general public including, but not limited to, the misrepresentation that
17 testosterone was safe, fit and effective for human consumption. At all times
18 mentioned, Defendants conducted sales and marketing campaigns to promote the
19 sale of testosterone and willfully deceived Plaintiff, Plaintiff's physicians and the
20 general public as to the health risks and consequences of the use of the
21 abovementioned products.

22 82. The Defendants made the foregoing representation without any
23 reasonable ground for believing them to be true. These representations were made
24 directly by Defendants, by sales representatives and other authorized agents of
25 Defendants, and in publications and other written materials directed to physicians,
26 medical patients and the public.

27 83. The representations by the Defendants were in fact false, in that
28 testosterone is not safe, fit and effective for human consumption, using testosterone

1 is hazardous to health, and testosterone has a serious propensity to cause serious
2 injuries to users, including but not limited to the injuries suffered by Plaintiff.

3 84 The foregoing representations by Defendants were made with the
4 intention of inducing reliance and the prescription, purchase and use of
5 testosterone.

6 85. In reliance of the misrepresentations by the Defendants, Plaintiff was
7 induced to purchase and use testosterone. If Plaintiff had known of the true facts
8 and the facts concealed by the Defendants, Plaintiff would not have used
9 testosterone. The reliance of Plaintiff upon Defendants' misrepresentations was
10 justified because such misrepresentations were made and conducted by individuals
11 and entities that were in a position to know the true facts.

12 86. As a result of the foregoing negligent misrepresentations by
13 Defendants, Plaintiff suffered serious injury, harm, damages, economic and non-
14 economic loss and will continue to suffer such harm, damages and losses in the
15 future.

16 **SEVENTH CLAIM FOR RELIEF**

17 **Fraudulent Concealment**

18 87. Plaintiff incorporates by reference each and every paragraph of this
19 Complaint as if fully set forth herein and further alleges as follows:

20 88. Any applicable statutes of limitations have been tolled by the knowing
21 and active concealment and denial of material facts known by each Defendant
22 when it had a duty to disclose those facts. Each Defendant has kept Plaintiff
23 ignorant of vital information essential to his pursuit of these claims, without any
24 fault or lack of diligence on Plaintiff's part, for the purpose of obtaining delay on
25 Plaintiff's part in filing a complaint on the causes of action. Each Defendants'
26 fraudulent concealment did result in such delay. Plaintiff could not reasonably
27 have discovered these claims until shortly before filing his original complaint.
28

1 89. Each Defendant was under a continuing duty to disclose the true
2 character, quality, and nature of its drug that Plaintiff utilized, but instead
3 concealed them. As a result, each Defendant is estopped from relying on any
4 statute of limitations defense.

5 **EIGHTH CLAIM FOR RELIEF**

6 **Violation of Unfair and Deceptive Trade Practices Act**

7 90. Plaintiff incorporates by reference each and every paragraph of this
8 Complaint as if fully set forth herein and further alleges as follows:

9 91. Defendants have a statutory duty to refrain from unfair or deceptive
10 acts or trade practices in the design, development, manufacture, promotion, and
11 sale of testosterone.

12 92. Had the Defendants not engaged in the deceptive conduct described
13 herein, Plaintiff would not have purchased and/or paid for testosterone, and would
14 not have incurred related medical costs. Specifically, Plaintiff, his physician, and
15 Plaintiff's physician's staff were misled by the deceptive conduct described herein.

16 93. Defendants' deceptive, unconscionable, and/or fraudulent
17 representations and material omissions to patients, physicians and consumers,
18 including Plaintiff, constituted unfair and deceptive acts and trade practices in
19 violation of the state consumer protection statute listed below.

20 94. Defendants engaged in wrongful conduct while at the same time
21 obtaining, under false pretenses, substantial sums of money from Plaintiff for
22 testosterone that they would not have paid had Defendants not engaged in unfair
23 and deceptive conduct.

24 95. Plaintiff was injured by the cumulative and indivisible nature of
25 Defendants' conduct. The cumulative effect of Defendants' conduct directed at
26 patients, physicians and consumers was to create a demand for and sell
27 testosterone. Each aspect of Defendants' conduct combined to artificially create
28 sales of testosterone.

96. The medical community relied upon Defendants' misrepresentations and omissions in determining to use testosterone.

97. By reason of the unlawful acts engaged in by Defendants, Plaintiff has suffered ascertainable loss and damages.

98. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff was damaged by paying in whole or in part for testosterone.

99. As a direct and proximate result of Defendants' violations of unfair trade practice acts, Plaintiff has sustained economic losses and other damages for which he is entitled to statutory and compensatory damages, and declaratory relief, in an amount to be proven at trial.

NINTH CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress

100. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully set forth herein and further alleges as follows:

101. Defendants carelessly and negligently manufactured, marketed, and sold testosterone to Plaintiff, carelessly and negligently concealed defects from Plaintiff, and carelessly and negligently misrepresented the quality and safety of testosterone. Defendants should have realized that such conduct involved an unreasonable risk of causing emotional distress to reasonable persons, that might, in turn, result in illness or bodily harm.

102. Defendants owed a duty to treating physicians and Plaintiff to accurately and truthfully represent the risks of testosterone. Defendants breached that duty by misrepresenting and/or failing to adequately warn of the risks of testosterone – effects of which Defendants knew or in the exercise of diligence should have known – to the treating physicians and Plaintiffs.

103. As a direct and proximate result of Defendants' wrongful conduct and breach of duty, Plaintiff has sustained and will continue to sustain severe emotional

1 distress either due to physical injury or a rational fear of physical injury and is
2 entitled to recovery of damages in an amount to be proven at trial.

3
4 **NINTH CLAIM FOR RELIEF**

5 **Loss of Consortium/Per Quod Claim**

6 104. Plaintiff incorporates by reference each and every paragraph of this
7 Complaint as if fully set forth herein and further alleges as follows:

8 105. By reason of the foregoing, Plaintiff's spouse has necessarily paid and
9 has become liable to pay for medical aid, treatment, attendance and medications,
10 and will necessarily incur further expenses of a similar nature in the future.

11 106. By reason of the foregoing, Plaintiff's spouse has been caused
12 presently and in the future the loss of her husband's companionship, services and
13 society.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff respectfully prays for relief as follows:

17 (a) Compensatory damages, in excess of the amount required for federal
18 diversity jurisdiction, and in an amount to fully compensate Plaintiff for all of his
19 injuries and damages, both past and present;

20 (b) Special damages, in excess of the amount required for federal
21 diversity jurisdiction and in an amount to fully compensate Plaintiff for all of his
22 injuries and damages, both past and present, including but not limited to, past and
23 future medical expenses, costs for past and future rehabilitation and/or home health
24 care, lost income, permanent disability, including permanent instability and loss of
25 balance, and pain and suffering.

26 (c) Punitive and/or exemplary damages for the wanton, willful,
27 fraudulent, reckless acts of Defendant who demonstrated a complete disregard and
28 reckless indifference for the safety and welfare of the general public and to

1 Plaintiff in an amount sufficient to punish Defendant and deter future similar
2 conduct

3 (d) Double or triple damages as allowed by law;

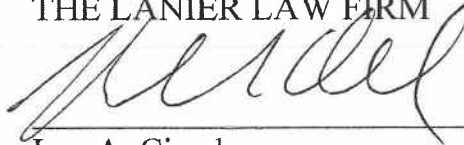
4 (e) Attorneys' fees, expenses, and costs of this action;

5 (f) Pre-judgment and post-judgment interest in the maximum amount
6 allowed by law; and

7 (g) Such further relief as this Court deems necessary, just, and proper.
8
9

10 Dated: April 4, 2014

THE LANIER LAW FIRM



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Attorneys for Plaintiff

RONALD COUWENHOVEN

JURY DEMAND

Plaintiff RONALD COUWENHOVEN hereby demands a trial by jury.

THE LANIER LAW FIRM



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Attorneys for Plaintiff
RONALD COUWENHOVEN

COMPLAINT FOR DAMAGES

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) RONALD COUWENHOVEN, an individual.	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) ABBOTT LABORATORIES, INC, et al.
(b) County of Residence of First Listed Plaintiff <u>Riverside</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>	County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i>
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Lee A. Cirsch (SBN 227668), Michael A. Aksehrud (SBN 285033) THE LANIER LAW FIRM, PC, 2049 Century Park East, Suite 1940 Phone: (310) 277-5100; Fax: (310) 277-5103 lee.cirsch@lanierlawfirm.com, michael.aksehrud@lanierlawfirm.com	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2. U.S. Government Defendant <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input checked="" type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input checked="" type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify) _____	<input type="checkbox"/> 6. Multi-District Litigation
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V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. 1338

VII. NATURE OF SUIT (Place an X in one box only).

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
		<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 751 Family and Medical Leave Act	
				<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

5:14-cv-6667

CV-71 (11/13)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. →	C.2. Is either of the following true? If so, check the one that applies: <input checked="" type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. ↓
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division? Enter the initial division determined by Question A, B, or C above: →	INITIAL DIVISION IN CACD Eastern Division
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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in **this court** and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in **this court** that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): /S/ Michael A. Akselrud

DATE: 4/4/2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Jesus G. Bernal and to
Magistrate Judge David T. Bristow.

The case number on all documents filed with the Court should read as follows:

5:14-cv-00667 JGB-DTBx

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the assigned Magistrate Judge has been designated to hear discovery-related motions. All discovery-related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

April 4, 2014

Date

By SBOURGEOIS
Deputy Clerk

ATTENTION

A copy of this Notice must be served on all parties served with the Summons and Complaint (or, in cases removed from state court, on all parties served with the Notice of Removal) by the party who filed the Complaint (or Notice of Removal).